

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BEIJING MEISHE NETWORK  
TECHNOLOGY CO., LTD.,

Plaintiff,

v.

TIKTOK INC., et al.,

Defendants.

Case No. [23-cv-06012-SI](#)

**ORDER LISTING QUESTIONS FOR  
THE PARTIES TO ADDRESS AT THE  
JULY 12, 2024 HEARING**

This case is set for a July 12, 2024 hearing on defendants' motion to dismiss plaintiff's fourth amended complaint and defendants' motion to compel plaintiff to identify its trade secrets and stay discovery in the interim. The Court would like the parties to be prepared to address the following questions at the July 12, 2024 hearing.

- Is Meishe alleging that each line entry in Ex. O to the Fourth Amended Complaint ("FOAC") is a trade secret that was misappropriated by defendants? Is Ex. O all of Meishe's source code?
- Is ¶ 150 of the FOAC, starting at "This source code includes . . ." a summary of the source code identified in Exhibit O?
- For the TUTSA choice of law dispute, neither party has adequately briefed whether CA or TX law should apply under the most significant relationship test. The parties should be prepared to present short arguments about this at the hearing.
- Do defendants have any legal authority in support of their argument that when alleging striking similarity, a plaintiff must plausibly allege striking similarity as to each copyrighted work?

- In Ex. P to the FOAC, were app versions 1.5 and lower created while Mr. Xie was employed by Meishe?
- Defendants' argument on page 8 of their motion to dismiss regarding the allegation in ¶ 116 of the FOAC seems to assume that all of Meishe's Copyrighted Works alleged in the FOAC are derivative works. How can the Court conclude on a 12(b)(6) motion, where all reasonable inferences must be drawn in favor of Meishe, that the Copyrighted Works are all derivative works?
- For the DMCA claim, is Meishe alleging claims under § 1202(a) and (b) or only under § 202(b)?
- In Dkt. No. 182, Ex. B the copyright holder for app1.5 is listed as Copyright China Digital Video (Beijing) Limited. Who is this?
- Why or why not should the Court adopt the reasoning in *Tremblay v. OpenAI, Inc.*, No. 23-cv-3223-AMO, 2024 WL 557720 (N.D. Cal. Feb. 12, 2024) with respect to the §1202(b) claim here?
- There is some case law from the district court level suggesting that a DMCA claim under § 1202(b) requires that the original work and copy with CMI removed be identical. How does this apply in the context of source code? Do the parties have any additional case law they can point to regarding whether dismissal on this basis is appropriate?

**IT IS SO ORDERED.**

Dated: July 2, 2024



SUSAN ILLSTON  
United States District Judge